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## Abstract

The requirements for Strategic Environmental Assessment (SEA) in Estonia legally came into force from January 1st, 2001. Since then seven SEAs of national level plans and programmes have been conducted. This paper, based on a survey of SEA stakeholders (public authorities, SEA experts, and environmental NGOs), explores the perceptions of objectives and effects, as well as difficulties, of conducting SEAs of national plans and programmes. SEA is considered to have had a tangible effect on the content of policy documents, stakeholder involvement and environmental education. At the same time, the late start of the SEA process and different perception of its objectives by different groups of stakeholders are probably the reasons for limited effectiveness of the process. Several recommendations related to SEA procedure and capacity building are proposed to overcome these difficulties.

*Key words: Strategic Environmental Assessment, SEA experts, SEA methodology, SEA process, public involvement*

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## Introduction

Accession to the European Union (EU) has accelerated the development of national legislation on environmental assessment and transposition of the corresponding EU legislation in Estonia. The national law on Environmental Impact Assessment (EIA) and Environmental Auditing (Estonia 2000), enforced from January 1, 2001, has become the driving force for the introduction of Strategic Environmental Assessment (SEA). The law states (art.22) that SEA should be applied to national development plans and programmes and should run in parallel with the drafting process of such policy documents<sup>i</sup> in order to enable consideration and mitigation of their likely environmental impacts. A self-standing Environmental Impact Statement (EIS) should be produced as part of an SEA.

The requirement for mandatory SEA of national plans, programmes and spatial plans<sup>ii</sup> has brought about an introduction of SEA into different sectors and public administration in a short period of time. The public administrations responsible for carrying out and supervising SEAs were not prepared for the implementation of the article 22. Since no further specific SEA process guidance was provided in the national law, the EU Directive 2001/42/EC (the “SEA Directive”) has often been referred to and consulted in Estonia. The SEA Directive is being currently formally transposed into national legislation (which will amend the existing EIA and Environmental Auditing Act). The new law will elaborate the screening process of SEA. At the same time, from January 2001 until August 2003, seven SEAs of national-level plans and programmes<sup>iii</sup> (see Table 1) were carried out.

This paper analyses the perceptions of the SEA experience in Estonia, especially of interactions between the process of drafting policy documents and SEA including the effects that SEA has had on the planning process. In addition, perceptions and expectations of stakeholders involved in both processes regarding the objectives, the role and the effects of SEA are discussed. The

stakeholder-centred approach for analysing the SEA system follows Emmelin's (1998) observation on the importance of incorporating different perspectives in the evaluation of EA systems. The article's focus on the timing of the SEA process, its interaction with the policy process and its effects is based on generally accepted criteria for a "good SEA" (e.g. Thérivel and Partidario (1996)).

### **Actors in the SEA process**

There are four main groups of actors in the SEA process in Estonia:

- (1) the Parliament or the Government which adopt and approve policy documents;
- (2) the public authority (usually sector ministries) responsible for drafting policy documents and assessing their potential environmental effects;
- (3) the environmental authority (the Ministry of Environment), which reviews the SEA documentation and approves the SEA programme and report;
- (4) SEA expert(s), contracted by the public authority to conduct SEA; Estonian law stipulates that only licensed environmental experts can conduct EIA and SEA; and
- (5) other stakeholders, with an interest in the issues potentially affected by the proposed policy and/or discussed in the SEA; "stakeholders" are usually interest groups, the general public or more commonly – environmental NGOs.

The number of stakeholder groups was the largest (more than 10 groups and over 100 participants represented) in the preparation of the Forestry Development Plan in 1999-2002 and the corresponding SEA. The diversity of stakeholder groups was probably the highest (due to the large number sectors involved) in the Single Programming Document process. In this last case 11 stakeholder groups included over 100 institutions and more than 200 people. The lowest public interest was observed during the public hearings of the Minimisation of Greenhouse Gas Emission Programme (less than 10 people participated). The majority of NGOs involved in SEA process do not only participate in public meetings but also revise the draft documents and make proposals for amendments (this was reported by five out of six NGO respondents).

This study focuses on analyzing perceptions of three groups of actors: public authorities, SEA experts, and other stakeholders. So far, the Government and the Parliament have played only a limited and indirect role in the SEA and thus have been left out of the scope of this study.

### **Methodology**

The main method of this study was a survey of SEA actors by means of a questionnaire and structured interviews. The survey explored the following questions:

1. When was the SEA started in relation to the start of drafting of policy documents?
2. What was the expected role of SEA and its impact on the policy document?
3. What was the actual impact of SEA on the policy document?
4. What were the major difficulties experienced in the SEA process?

A generic questionnaire with fixed choice answers comprised 13 questions with 3 to 19 optional answers<sup>iv</sup> depending on the question. This generic questionnaire was further adjusted to explore the different roles and perspectives of actors involved in the SEA process. Separate questionnaires were then developed for each group of actors in the seven SEAs conducted at the national level in Estonia to date (see Table 1): public authorities, SEA experts and other

stakeholders. In total, 33 questionnaires were distributed of which 26 (ca 80%) were returned with the rate of return not significantly different between the groups of stakeholders. Among the respondents were nine officials, nine experts and eight NGO representatives. Interviews were conducted with four representatives of public authorities and three SEA experts to discuss and clarify their responses to the survey as well as to obtain more information on particular case-studies.

**Table 1. National strategic documents for which SEAs were conducted in Estonia in 2000-2003, their proponents and adopting bodies, and the numbers of SEA actors who responded to the survey**

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1. Single Programming Document (Ministry of Finance/Government) (9)
2. Forestry Development Plan (Ministry of Environment/Parliament) (4)
3. Fuel and Energy Development Plan (Ministry of Economy and Communication/Parliament) (5)
4. National Programme on Minimisation of Emissions of Greenhouse Gases (Ministry of Environment/Government) (2)
5. National Development Plan Sustainable Estonia 21 (Ministry of Environment/Parliament) (2)
6. Rural Development Plan (Ministry of Agriculture/Government) (2)
7. Planning permission for the central test ground for national defence forces (Ministry of Defence/Government) (2)

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Despite the seemingly small number of respondents, this was a comprehensive coverage of SEA actors in Estonia given the small size of the country and the small number of SEAs conducted to date. For each SEA case, there have been usually one to two (rarely three) individuals at the responsible ministry, one to two people supervising SEA in the Ministry of the Environment, and five to six SEA experts involved. The public involvement also varied depending upon the programme or plan.

### **Survey findings**

The results of the survey in each of the four key areas are reported below. This is preceded by the review of the types of strategic documents subject to SEA in Estonia.

#### **What is a programme or a plan**

As mentioned above, the law requires that SEA is applied to national plans and programmes, however there is a legal definition only for national programmes<sup>v</sup>, not for other types of policy documents in Estonia. The need for a legal definition of other types of strategic documents is obvious, given the diversity of terms currently used in Estonia, such as “a (national) development plan”, “a (national) programme”, “a strategy”, and “an action plan”. Diverse interpretations of these terms have made it difficult for public authorities and courts to decide whether an SEA of a particular document is needed.

For example, in 2001, two environmental NGOs sued the Ministry of Economics and Communication for not having conducted an SEA of the Action Plan for Estonian Oil-Shale Based Energy Sector Restructuring in 2001-2006. The Ministry argued that there was no

obligation to conduct an SEA since the law did not specify the types of programmes and plans subject to SEA. In 2004, the Supreme Court ruled that the lack of such legal definitions cannot be an excuse for not conducting an SEA.

An environmental NGO also promoted the application of SEA in the case of the Rural Development Plan when it sent a letter to the Minister of Agriculture requesting it to conduct an SEA in accordance with the law. The SEA was eventually launched but with a delay of almost four months.

Another example is the national programme for establishment of the Natura2000 network in 2003-2007 (adopted in 2003) which was not subject to SEA contrary to the fact that it is clearly a national programme adopted by the Government. The reasoning of the Ministry of Environment was that this particular programme was not a new one but the second phase of the programme adopted earlier (which covered the period of 2000-2003). However, the SEA was not conducted for the first stage either (Peterson, 2003). These examples prove that the lack of legal definitions and hierarchy of various policy documents have complicated the SEA screening process.

### **Timing of SEA**

In six out of seven SEA cases in Estonia, the SEA started notably later than the process of developing the policy document. The delay in starting the SEA varied from one month to one year. The respondents from ministries usually explained the delayed start of SEA by referring to the fact that at the beginning of the drafting process “there was nothing to assess yet”. This is a sign of the attitude to SEA as a “reactive” assessment tool, rather than a “proactive” planning aid. The only exception was the National Long-term Development Plan of Fuel and Energy Sector, where the Ministry of Economics and Communication launched the drafting of the plan and the SEA at the same time. The timely start of the SEA in this case was probably aimed to avoid the negative experience of litigation with environmental NGOs over the need for SEA as in case of the Oil-Shale Sector Restructuring Plan (described above).

The late start of the SEA process usually resulted, in the opinion of most respondents, in situations where there are only a limited number of options to consider, since important policy decisions have been already made. For example, at the launch of an energy policy drafting process, the relevant Ministry (sometimes together with an expert team or working group) sets objectives of the policy, the Government agrees on the scope and content of the document, sets the time frame and allocates the budget. Once the scope and, sometimes, the objectives are fixed it leaves limited, if any, space for exploring environmentally more suitable alternatives. This increases the likelihood of facing delays in completion of the draft policy document and of excessive costs, if changes are demanded, by environmental experts or NGOs.

### **Objectives and expectations of SEA**

Though the law defines the overall purpose of SEA, in practice, the proponents defined more specific objectives of SEA somewhat differently in each particular case.

All SEA actors agreed that the primary objective was to identify the potential activities proposed by the policy document which are likely to have significant environmental effects (Table 2). There was also a general agreement among the responsible ministries and SEA experts on other important objectives, such as identification of possible conflicts between the objectives of the policy document and national (sectoral) environmental objectives and reaching a public consensus on them. However, NGOs considered the development of mitigation plans to avoid or minimize the likely significant environmental effects, and development of environmental objectives for the policy document which is subject to SEA and for the related sector, far more

important than other actors. This view probably stems from the fact that no sector-specific environmental objectives have so far been developed in Estonia, despite the stipulation of the National Environmental Strategy (1997). At the same time the ten National Environmental Objectives are too general to usefully guide environmental aspects of policy documents.

The main reason for different expectations may lie in the lack of legal definition of the plan and programme and the lack of a hierarchy between these strategic documents which could enable tiering. There is currently no clarity as to what level of details is expected from each type of strategic document (plan, programme, etc.) and what are the hierarchical relationships between these. This results in different interpretations on what sort of alternatives should be considered, what should be the level of detail of mitigation measures, etc., which eventually lead to different expectations regarding SEAs.

Even the responsible ministries and the Ministry of the Environment had, in some cases, different perceptions of the SEA objectives. For example, in the case of National Long-term Development Plan of Fuel and Energy Sector, the Ministry of Economy and Communications expected SEA to facilitate reaching public consensus on environmental issues, the Ministry of Environment expected SEA to identify potential activities proposed by the Plan likely to have significant environmental effects, and the SEA expert considered his main task to make the Plan public and to enable a public debate on it. Similarly, in the case of the Single Programming Document, one SEA expert regarded the overall SEA aim to be the identification of proposed measures and activities which are likely to have significant environmental impacts, another SEA expert considered the main aim to be identification of possible conflicts between the objectives of the document and national environmental objectives, whereas the third expert regarded the involvement of other ministries in the process as the primary aim of SEA.

Table 2. Key objectives of SEA and ranking of their importance by different actors

SEA Objective	Importance of the objective as perceived by		
	Public authorities	SEA experts	Environmental NGOs
To identify the potential activities proposed by the policy document which are likely to have significant environmental effects	1	1	1
To identify possible conflicts between the objectives of the policy document and national (or sectoral) environmental objectives	2	2	-
To reach public consensus on environmental issues	3	4	-
To make the policy document public and to enable a public debate on it	4	3	4
To involve stakeholders into the process	5	-	5
To produce a mitigation plan to avoid or minimize the likely significant environmental effect	-	5	2
To develop environmental objectives for the policy document which is being subject to SEA	-	-	3

*Note:* The numbers in the table show ranking (from 1 being the most important to 5 being the least important) of a particular objective by the group of actors. “-“ means that a particular objective was not mentioned by a group of actors.

It may be concluded that if the objectives of SEA are not agreed among the actors of the process at the beginning of the process it may lead to different, even contradictory, expectations about the outputs and outcomes.

### Impact of SEA on policy documents

The respondents were asked about the overall impact of SEA as well as about its effects on specific aspects of strategic planning process and documents (Table 3). Only three NGO respondents out of 26 respondents reported that SEA had no overall impact while 21 people regarded the overall SEA impact as limited, and two people considered the overall impact of SEA as significant. According to the majority of respondents (21) the impacts of SEA were largely expressed through its ability to modify the content of the policy document. Twenty-one respondents believed that SEA affected the document and drafting process, either to a large (11) or to a more limited extent (10).



All groups of respondents believed that SEA had expanded the number of stakeholders involved in the policy drafting process, though NGOs ranked this effect lower than authorities and experts (Table 3). Public authorities had experienced the impact of SEA mostly via the increased burden of public communication, such as holding public meetings and correspondence with large number of stakeholders, which had also often resulted in a budget deficit, because these costs were not initially planned. Difficulty in managing public consultation had been the usual reason for delayed planning processes and increased costs. Total costs rose due to changes in the initial scope of the policy document, increased complexity of issues targeted by the policy document, followed by the need for additional public meetings and the extent of amendments required. The perception that SEA adds to the costs was also shared by the experts, but, understandably, not NGOs. At the same time all three groups of actors (especially NGOs!) believed that SEA increased the length of the planning process (Table 3).

Regarding the benefits of SEA, the public authorities pointed out better coverage of environmental issues in the policy documents and their own environmental education through contacts with SEA experts. In the experts' view, SEA has mostly contributed to the content rather than to the scope and objectives of policy documents. However, the latter role was emphasized by NGOs in changing the scope and objectives of policy documents.

**Table 3. The six most significant effects of SEA on the policy document as perceived by different actors**

Impact of SEA	Significance of SEA impacts as perceived by:		
	Public authorities	SEA experts	Environmental NGOs
SEA resulted in the increased number of stakeholders involved in the policy process	1	1	4
SEA imposed additional costs of the policy drafting process	2	3	-
SEA resulted in modification of the composition and content of the policy document	3	2	5
SEA resulted in the increased length of the drafting process of the policy document	4	5	1
SEA resulted in expanded the scope of the policy document	5	-	3
SEA resulted in modification of the objectives of the policy document	-	4	2

### **Major difficulties in carrying out SEA**

In the current research, the question regarding difficulties of conducting SEA was only asked of public authorities and SEA experts, i.e. those actors who are actually involved in preparing SEA

reports. The major difficulty experienced by both groups was to fit SEA into the given timeframe (Table 4). As noted above, typically a SEA started later than the drafting process of the policy document. SEA experts are usually left the last 4-6 months to do their job (e.g. in case of Sustainable Estonia 21, the Rural Development Plan, and the Forestry Development Plan). It was found to be especially difficult to adhere to the timeline in relation to such public consultation activities as public display of the draft policy document, public hearings, processing of comments and providing feedback.

The other difficulties that SEA experts have encountered were related to the lack of sectoral environmental objectives and criteria. In addition they noted the lack of established methods and approaches for identifying and assessing significant impacts and performing other SEA tasks.

Most of the interviewed experts linked the above mentioned difficulties to insufficient capacity for undertaking SEA in Estonia. Most respondents believed that there are less than ten qualified SEA experts in Estonia, while eleven out of thirteen interviewed public authority respondents considered that their ministries' SEA capacities are insufficient.

**Table 4. Five major difficulties experienced in SEA as perceived by different actors**

Order of significance	Public authorities	SEA experts
1	To adhere to the timeline	
2	To build consensus between stakeholders	To define the environmental objectives or assessment criteria for the policy document
3	To establish timely exchange of information between the SEA and the drafting teams	To identify significant environmental impacts
4	To develop ToR for SEA	To identify the method best suitable for this particular SER
5	To define the environmental objectives or assessment criteria for the policy document	To get acceptance on the environmental objectives from stakeholders

## Conclusions and recommendations

This paper has sought to explore the role of SEA in Estonia as perceived by its different stakeholders. On the basis of 26 evaluations by three groups of respondents (public authorities, SEA experts and environmental NGOs) of seven SEAs it can be concluded that SEA is rapidly making its way as a tool of forecasting environmental impacts and communicating them to diverse stakeholders and, to a lesser extent, of integrating environmental concerns into strategic decision-making.

The first observation was that expectations regarding the objectives of particular SEAs vary between groups of stakeholders. These different expectations may lead to confusion and misunderstanding later in the process. It is proposed that the specific objectives of SEA are discussed early by the proponent, the experts and the interested stakeholders in order to avoid confusion and delays.

The perceived effects of SEA were in line with original expectations of the stakeholders and also varied between different stakeholders. The most prominent perceived effect of SEA related to its

ability to modify the content and the composition of the policy document. SEAs also have had strong impacts on identification of stakeholders and their further involvement in the process of drafting of policy documents as well as on education of all process participants. SEAs have had more limited impact on the scope and objectives of the policy document. Since the SEA in Estonia follows the “strategic EIA” paradigm, the findings of this study suggest, in line with Fischer (2003) that even this “traditional” less flexible model results in some (albeit limited) benefits of SEA application. Most stakeholders considered that positive effects of SEA can be enhanced if SEA starts early in the policy document drafting process, which is currently not the case in Estonia.

The main problem faced both by public authorities and SEA experts in the SEA process was to identify whether SEA is required. This confusion is caused by the lack of legal definition of a plan and programme. On a different level of planning, not explored in this article, it also causes uncertainty in deciding whether SEAs of local and regional development plans is required.

Once an SEA has been launched, adhering to the given timeline and keeping within the budget usually becomes a notable problem. Public authorities find management of public meetings, communication with stakeholders and reaching consensus between interest groups a demanding task. Defining appropriate environmental objectives and criteria for a particular plan or programme was regarded as the largest challenge by SEA experts.

On the basis of these findings, the following measures can be proposed for strengthening the SEA system in Estonia:

1. Once the development of policy documents and corresponding budgets are planned, the SEA process and the corresponding budget need to be planned as well.
2. It is strongly recommended that SEA is formally initiated by the same executive order as the drafting of policy document.
3. In order to make the screening process transparent and effective, the definition of plans and programmes and their mutual hierarchy need to be legally established. Legal definition will provide a clear system of policy documents subject to SEA.
4. The objectives of SEA need to be agreed among actors and communicated to them in the early stage of the SEA process in order to avoid controversies during the SEA process and false expectations of the results of SEA and .
5. Since national environmental objectives are too general for sector specific SEAs, it is proposed that each sector must develop and adopt its own environmental objectives to provide framework for SEA methodology and further impact assessment.
6. It is recommended that SEA training programmes are developed for public authorities in charge of SEA in their sector to build their in-house capacity on SEA and in public communication, in particular.

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<sup>i</sup> The term "policy documents" is used here to refer to strategies, various plans and programmes, further referred to as PPs (see e.g. Box 1).

<sup>ii</sup> The requirement for mandatory SEA of spatial plans was removed from the law in 2003 because it was felt that SEA is not needed for the majority of of small-scale spatial plans with no significant environmental consequences prepared in Estonia.

<sup>iii</sup> In addition, probably, hundreds of local spatial plans were accompanied by 1-2 page descriptions of environmental issues. These descriptions are not covered in the current article.

<sup>iv</sup> The optional answers were selected based on the survey of SEA literature and consultation with SEA practitioners in Estonia and other countries.

<sup>v</sup> Regulation by the Minister of Finances on the order of developing national programmes to be financed from the national budget (State Gazette, RTL 1998, 58/59,258)